

**REMARKS/ARGUMENTS**

Applicants' attorney thanks the Examiner for her comments. Claims 1-12 and 40-43 are pending in this patent application. Claims 13-39 have been withdrawn from further consideration by the Examiner pursuant to 37 CFR 1.142(b) as being drawn to nonelected groups.

**Amendments to the Claims**

Independent Claim 1 has been amended to require *the second material having a basis weight greater than a basis weight of the first material*, to overcome the Examiner's objections to the specification and the claims as set forth in paragraph 7 of the Office Action and to overcome the Examiner's rejection of Claims 1-8 under 35 U.S.C. § 102. This amendment is fully supported throughout Applicants' specification, for example at page 6, lines 12-13.

Claims 9-12 have been amended to overcome the Examiner's objection to Claims 9-12 as set forth in paragraph 8 of the Office Action.

New independent Claims 40-43 have been added to this application. Each of independent Claims 40-43 are fully supported throughout Applicants' specification, for example at page 7, lines 6-19.

There is no additional claim fee due for this Amendment because the total number of claims and the total number of independent claims does not exceed the total number of claims and the total number of independent claims for which fees have previously been paid.

No new matter has been added to this application.

**Drawing Objections**

Applicants have amended Figs. 1-5 as shown on the attached amended drawing sheets to overcome the Examiner's objections to Figs. 1-5. Applicants have amended the Brief Description of Drawings to overcome the Examiner's objections

in regard to Figs. 4 and 17-27. Thus, Applicants respectfully request withdrawal of this objection.

### Specification Objections

Applicants have amended the specification at page 42, lines 6-16 in response to the Examiner's objections to the specification as set forth in paragraph 6 of the Office Action regarding the use of the trademark KRATON.

Applicants have amended the specification at page 12, lines 3-6 in response to the Examiner's objections to the specification as set forth in paragraph 7 of the Office Action regarding the brief description of Fig. 4.

Applicants have amended the specification at page 23, lines 1-20, and at page 24, lines 1-8, in response to the Examiner's objections to the specification as set forth in paragraph 7 of the Office Action regarding whether TRITON and Chisso are trademarks.

At paragraph 7 of the Office Action, the Examiner objects to Fig. 4, because it shows the attachment panel 66 as two elements located on the inside of the front waist region. As set forth in the specification at page 29, lines 11-15, the attachment panel 66 may include a single piece of material or two separate panels:

“The attachment panel 66 may include a single piece of material which extends substantially across the respective waist region of the diaper 20, as shown in Figs. 1-3. Alternatively, the attachment panel 66 may include two separate panels located along the opposed side edges of the absorbent chassis 27 in one of the front waist region 22 and the back waist region 24, as shown in Fig. 4.”

At paragraph 7 of the Office Action, the Examiner alleges that the description of “passive bond” and “passively bonded” and how it is achieved is unclear due to the inconsistent description throughout the specification and the claims.

Applicants have amended the specification at page 5, lines 2-5, and at

page 10, lines 3-7, to be consistent with the description set forth at page 7, lines 6-19, wherein it is stated:

“Bonding two dissimilar materials at the side seam, for example a front ear and a back ear, using passive bonds allows the front ear to tear more easily than the back ear. In accordance with one embodiment of the invention, the back ear or the portion of the back waist region including the tearable second material, tears desirably less than about 100% of the time, more desirably less than about 50% of the time and still more desirably never tears. In one embodiment, the front ear or the portion of the front waist region including the first material tears when the passive bonds are broken.

With the foregoing in mind, it is a feature and advantage of the invention to provide a pant-like, refastenable disposable absorbent article having side seams which include a front ear passively bonded to a back ear, wherein the front ear is releasable from the back ear without tearing or damaging the back ear more than the front ear and, most preferably, not damaging the back ear or negatively affecting its tensile strength.”

Applicants have amended independent Claim 1 to require the limitation that the second material has a higher basis weight than a basis weight of the first material.

Applicants respectfully request withdrawal of these objections.

### **Claim Objections**

The Examiner objected to Claims 9-12 because of informalities. Applicants have amended Claims 9-12 as suggested by the Examiner and, thus, respectfully request withdrawal of this objection.

### **Claim Rejections - 35 U.S.C. § 102**

The Examiner rejected Claims 1-8 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,622,589 (“Johnson et al.”). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

The present invention is directed to an absorbent article having side seams which include a front ear passively bonded to a back ear. The front ear is made of a first material having a first basis weight and the back ear is made of a second material different from the first material and having a second basis weight greater than the first basis weight. As set forth in Applicants' specification at page 7, lines 6-19, bonding two dissimilar materials at the side seam, for example a front ear and a back ear, using passive bonds allows the front ear to tear more easily than the back ear. In accordance with one embodiment of the invention, the back ear or the portion of the back waist region including the tearable second material, tears desirably less than about 100% of the time, more desirably less than about 50% of the time and still more desirably never tears. In one embodiment, the front ear or the portion of the front waist region including the first material tears when the passive bonds are broken. The pant-like, refastenable disposable absorbent article of the present invention includes side seams which include a front ear passively bonded to a back ear, wherein the front ear is releasable from the back ear without tearing or damaging the back ear more than the front ear and, most preferably, not damaging the back ear or negatively affecting its tensile strength.

Amended independent Claim 1 requires the limitations of "a second ear panel formed of a second material different from the first material extending from a first edge portion of the back waist region, *the second material having a basis weight greater than a basis weight of the first material*"; and "at least one manually tearable passive bond connecting the first ear panel and the second ear panel together."

For a reference to anticipate a claim, the reference must teach each and every element or limitation of the claim. Johnson et al. does not teach each and every element or limitation of amended independent Claim 1. Johnson et al. teaches a method for making a flangeless seam, wherein a barrier member 205 is positioned

between a first member 200 and a second member 202. Joining means joins the first member 200, the barrier member 205 and the second member 202 to form a laminate 220 including a proximal portion 210 and a distal portion 212. As shown in Figs. 5-7, to open the flangeless seam of Johnson et al., the barrier member 205 is preferably torn or separated. See Johnson et al. at Col. 9, lines 17-20. In one particularly preferred embodiment, the barrier member 205 comprises a nonwoven material that will tear with less force than is needed to separate the barrier member 205 from either the proximal portion 210 or the distal portion 212. See Johnson et al. at Col. 9, lines 28-32.

Johnson et al. does not teach a second ear panel formed of a second material different from the first material wherein **the second material has a basis weight greater than a basis weight of the first material**. Further, Johnson et al. does not teach at least one **manually tearable passive bond** connecting the first ear panel and the second ear panel together, as required by Applicants' claimed invention. Although Johnson et al. mentions that the materials included in the laminate 220 may comprise single layer materials or laminates of similar or different materials, Johnson et al. does not teach that the second material is different than the first material and does not teach that the materials may have different basis weights, with the second material having a basis weight greater than a basis weight of the first material. Additionally, Johnson et al. does not teach using a manually tearable passive bond to connect the two materials. Rather, Johnson et al. teaches using a barrier member 205 positioned between the materials that will tear with less force than is needed to separate the bonds connecting the barrier member to the proximal portion and the distal portion.

For at least the reasons presented above, Applicants respectfully submit that amended independent Claim 1 is not anticipated by Johnson et al. Because

Claims 2-8 depend from amended independent Claim 1, these claims are also not anticipated by Johnson et al. Applicants respectfully request withdrawal of this rejection.

#### **Claim Rejections - 35 U.S.C. § 103**

The Examiner rejected Claims 9-12 under 35 U.S.C. § 103(a) as being obvious over Johnson et al. in view of U.S. Patent 6,036,805 ("McNichols") and, thus, also U.S. Patent 5,226,992 ("Morman"). This rejection is respectfully traversed.

Claims 9-12 depend from amended independent Claim 1, which Applicants believe is patentable for at least the reasons presented above. Applicants respectfully request withdrawal of this rejection.

#### **Conclusion**

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



Eric T. Krischke  
Registration No. 42,769

Pauley Petersen & Erickson  
2800 West Higgins Road  
Suite 365  
Hoffman Estates, Illinois 60195  
TEL 847.490.1400  
FAX 847.490.1403